

Exhibit J

The Washington Post

Democracy Dies in Darkness

THE TECHNOLOGY **202**

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Republicans seized on a study as proof of Google's bias. Its authors say it's being misrepresented.

Analysis by [Cristiano Lima](#)

with research by [Aaron Schaffer](#)

May 25, 2022 at 8:57 a.m. EDT

Happy Wednesday! I hope the newsletter has helped you navigate the intricacies of tech policy as much as it's helped my family. Send tips and family tech anecdotes to: cristiano.lima@washpost.com.

Below: Democrats call on Google to limit location data ahead of the Supreme Court's decision on abortion, and researchers find some online learning apps tracked children. First:

Republicans seized on a study as proof of Google's bias. Its authors say it's being misrepresented.

An academic study finding that Google's algorithms for weeding out spam emails demonstrated a bias against conservative candidates has inflamed Republican lawmakers, who have seized on the results as proof that the tech giant tried to give Democrats an electoral edge.

Case 2:22-cv-01904-DJC-JDP Document 30-11 Filed 01/23/23 Page 3 of 9

In an op-ed for the Hill last week, Sen. **Steve Daines** (R-Mont.) said that the peer-reviewed paper from a group of researchers at North Carolina State University has “unmistakably exposed Big Tech’s most egregious attempt to tilt the scale toward left-wing candidates.” GOP senators grilled a Google executive about it in a recent private meeting, Politico reported.

But the researchers behind the study say the findings have been cherry-picked and misrepresented in Washington — and that they found no such proof.

“Our study does not make any such conclusion,” **Muhammad Shahzad**, one of its lead authors, said of Daines’s claim in the group’s first media interview on the topic.

Shahzad, an associate professor in computer science, said while the paper “demonstrates that there is a bias” under certain circumstances across services, it “has nothing in it that demonstrates that someone is deliberately trying to turn the elections.”

The researchers set up over 100 email accounts across Google’s Gmail, Microsoft’s Outlook and Yahoo Mail and signed up for messages from more than 200 candidates in 2020. They found that all of the services exhibited political biases in which emails they sent to spam, but in varying directions.

“Gmail marked 59.3% more emails from the right candidates as spam compared to the left candidates, whereas Outlook and Yahoo marked 20.4% and 14.2% more emails from left candidates as spam compared to the right candidates, respectively,” they wrote.

That finding has become the latest piece of evidence used by Republicans to accuse Silicon Valley giants of bias. But the researchers said it’s being taken out of context.

Shahzad said while the spam filters demonstrated political biases in their “default behavior” with newly created accounts, the trend shifted dramatically once they simulated having users put in their preferences by marking some messages as spam and others as not.

“What we saw was after they were being used, the biases in Gmail almost disappeared, but in Outlook and Yahoo they did not,” he said.

Google spokesperson **Ross Richendrfer** said the study “has major flaws,” including “an exceedingly small sample size, [an] outdated two-year-old data” and that it “in no way accounted for whether candidates optimized their domains to send bulk emails.” They added, “There is no political bias in how Gmail deals with spam.”

Jeff Jones, senior director of communication at Microsoft, said in a statement that the company uses anti-spam tools to “make sure that customers do not receive unwanted or inappropriate” emails and that occasionally “some wanted communications may be filtered unintentionally.” Yahoo spokespeople did not return a request for comment.

Shahzad argued that the results showing how filters respond once user behavior is factored in are more “significant” given that real users’ accounts don’t stay idle.

“Gmail isn’t biased like the way it’s being portrayed,” he said. “I’m not advocating for Gmail or anything. I’m just stating that when we take the observation out of a study, you should take all of the observations, not just cherry-pick a few and then try to use them.”

Republicans omitted or downplayed biases against Democrats in Outlook and Yahoo Mail.

In a letter bashing Google over the findings, Sen. **Josh Hawley** (R-Mo.) noted that Microsoft and Yahoo’s algorithms “favored one party,” but left out the fact that it was his own. Hawley also claimed that the researchers anticipated and “refuted” Google’s remarks that the findings could be explained by user behavior.

Shahzad said that’s not true — they couldn’t definitively prove either way whether user behavior was the true driving cause behind the bias, but he speculated that it’s a large factor.

The biggest challenge in getting to the bottom of a phenomenon like this, he said, is that researchers don’t have greater access to tech companies’ algorithms.

“For us, it is a black box. We only see the input and output. We don’t see what happened inside. So ... we probably can never say exactly what is going on in the background,” he said.

The dispute over the study is in many ways a microcosm of the broader dynamics causing rifts between Republicans and Silicon Valley.

GOP lawmakers have at times seized on anecdotal evidence to accuse the tech giants of bias, criticisms the companies have often rebuffed as technical misunderstandings. But lawmakers across the political spectrum say they are done taking companies at their word, and their ability to untangle the truth instead depends on how much data outsiders can get from Silicon Valley.

“This would become very difficult to explain, even if they made the algorithms public,” Shahzad said. “But at least,” he added, concerns about intent “could be alleviated.”

Our top tabs

Democrats ask Google to stop collecting data that could identify people who get abortions

Privacy experts and lawmakers have called for limits on such data in the wake of a leaked draft Supreme Court decision indicating that the court was considering overturning *Roe v. Wade*. Location data collected by Google specifically could be “used by right-wing prosecutors to identify people who have obtained abortions” if the court overturns the precedent, dozens of lawmakers warned in a letter to Google chief executive **Sundar Pichai**. The letter was led by Sen. **Ron Wyden** (D-Ore.) and Rep. **Anna G. Eshoo** (D-Calif.), CNBC’s Lauren Feiner reports.

Case 2:22-cv-01904-DJC-JDP Document 30-11 Filed 01/23/23 Page 5 of 9

“While Google deserves credit for being one of the first companies in America to insist on a warrant before disclosing location data to law enforcement, that is not enough,” the 42 Democrats wrote. “If abortion is made illegal by the far-right Supreme Court and Republican lawmakers, it is inevitable that right-wing prosecutors will obtain legal warrants to hunt down, prosecute and jail women for obtaining critical reproductive health care.”

Google didn’t respond to CNBC’s request for comment.

School apps and websites tracked millions of children amid the pandemic

Researchers at Human Rights Watch examined 164 educational apps and found that nearly 90 percent of the tools were designed to send data to ad-technology companies, **Drew Harwell** reports. Ultimately, they discovered that the tools send data to almost 200 ad-tech companies, with few of them telling parents how the companies would use the data.

Children were “just as likely to be surveilled in their virtual classrooms as adults shopping in the world’s largest virtual malls,” wrote lead researcher **Hye Jung Han**. The creators of the sites and school districts defended their use, saying the researchers included some homepages with trackers instead of only trackerless internal pages. But the researchers defended the study by saying that students sometimes had to sign in on the homepages.

The study comes amid growing concerns about the privacy risk of educational technology, including by the Federal Trade Commission. Last week, the commission approved a policy statement urging stronger enforcement of the Children’s Online Privacy Protection Act. The law should “ensure that children can do their schoolwork without having to surrender to commercial surveillance practices,” FTC Chair **Lina Khan** said.

Judge blocks Tesla’s attempt to move sexual harassment case to arbitration

The decision by Alameda County (Calif.) Superior Court Judge **Stephen Kaus** moves a sexual harassment lawsuit by **Jessica Barraza** into public view, **Faiz Siddiqui** reports. She alleged “nightmarish conditions” at Tesla and argued that sexual harassment is “rampant” at the company.

“This is a victory for public accountability,” said **David A. Lowe**, a partner at Rudy Exelrod Zieff & Lowe who represents Barraza. “Because of this ruling, Tesla will not be able to hide behind the closed doors of confidential arbitration. Instead, Tesla will be judged by a jury of Ms. Barraza’s peers in a public courtroom.” Tesla didn’t respond to a request for comment.

After Barraza filed her lawsuit, six other women sued the company, alleging sexual harassment. Their cases are pending.

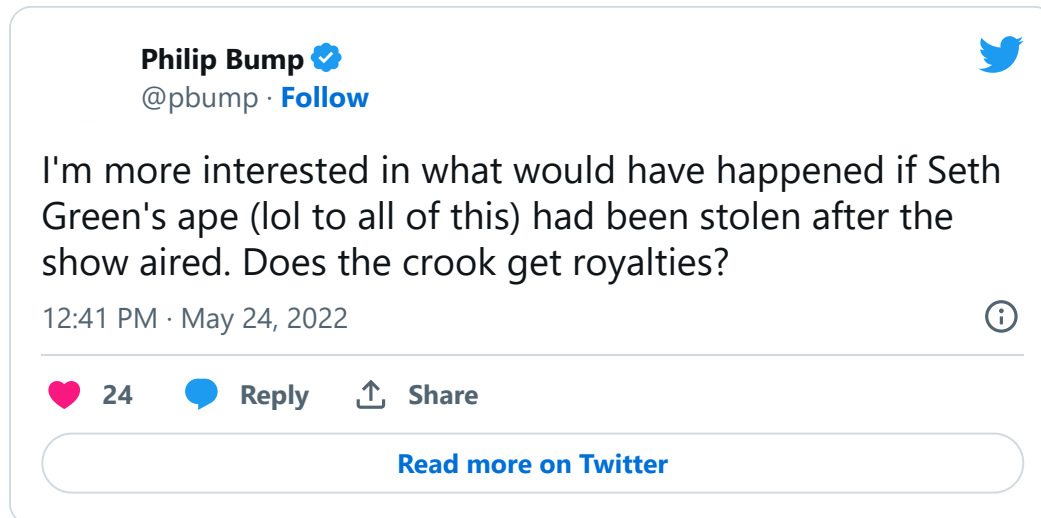
Some workers said Tesla chief executive **Elon Musk**’s behavior and sometimes crude tweets exacerbated the behavior. SpaceX paid \$250,000 to settle a claim that Musk sexually harassed a flight attendant on his jet, Insider reported last week. Musk denied the report and called it “politically motivated” as he tries to buy Twitter.

Rant and rave

Actor **Seth Green**'s planned show is in jeopardy after one of his non-fungible tokens (NFTs) was stolen and sold, BuzzFeed News's **Sarah Emerson** reports. Someone else now owns the NFT — and the commercial rights to the NFT — that Green apparently made into the star of the show. WFLA's **Heather Monahan**:

we are living in the stupidest timeline <https://t.co/bZGB92xZL5>
— Heather Monahan (@HeatherMonahan_) May 24, 2022

Our colleague **Philip Bump**:



The Verge's **Jon Porter**:

jon.porter 

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Look, I'm not saying this is an elaborate stunt to promote a TV show that no one had heard of until this week. I'm just saying I wouldn't be surprised if it was

buzzfeednews.com

Someone Stole Seth Green's Bored Ape, Which Was Supposed ...
The actor has been pleading on Twitter with "DarkWing84," who bought his ape from a scammer, to return it.

10:52 AM · May 24, 2022



4



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Inside the industry

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Privacy monitor

[Clearview AI's facial recognition tool coming to apps, schools \(Reuters\)](#)

Hill happenings

Workforce report

Nearly one in five Amazon delivery drivers suffered injuries in 2021, study finds (CNBC)

Lyft to pause hiring and trim budgets, citing economic slowdown (Wall Street Journal)

Trending

Netflix releases new game titles (Reuters)

Mentions

- **Charlie Meisch** has joined the National Telecommunications and Information Administration as its director of public affairs. He previously worked as senior vice president at Crosscut Strategies and as a senior adviser at the FCC.

Daybook

- Undersecretary of Commerce for Industry and Security **Alan Estevez** speaks at an event hosted by the Atlantic Council and Krach Institute for Tech Diplomacy at Purdue today at 10 a.m.
- A House Oversight and Reform Committee panel holds a hearing on the Technology Modernization Fund today at 10 a.m.
- FCC Commissioner **Nathan Simington** discusses net neutrality at an R Street Institute event on Thursday at 3 p.m.

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